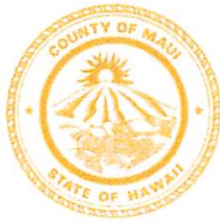


MICHAEL P. VICTORINO  
Mayor  
DAVID C. THYNE  
Fire Chief  
BRADFORD K. VENTURA  
Deputy Fire Chief



RECEIVED  
2019 OCT 31 AM 11:51  
OFFICE OF THE MAYOR

DEPARTMENT OF FIRE & PUBLIC SAFETY  
COUNTY OF MAUI  
200 DAIRY ROAD  
KAHULUI, HI 96732

October 30, 2019

Honorable Michael P. Victorino  
Mayor, County of Maui  
200 South High Street  
Wailuku, HI 96793

APPROVED FOR TRANSMITTAL

*For David C. Thyne*  
Mayor  
11/1/19  
Date

OFFICE OF THE  
COUNTY CLERK

2019 NOV - 1 AM 11:51

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For Transmittal to:

Honorable Kelly T. King  
And Members of the Maui County Council  
200 South High Street  
Wailuku, HI 96793

Dear Chair King and Members:

Please find the enclosed proposed bill for an ordinance authorizing the Mayor of the County of Maui to enter into an Intergovernmental Agreement Amending the Memorandum of Agreement for Lifeguard Service between the State of Hawaii and the County of Maui for Makena Beach Park.

Thank you for your attention in this matter. If you have any questions, please feel free to call my office at (808) 270-7561.

Sincerely,

DAVID C. THYNE  
Fire Chief

Enclosed

COUNTY COMMUNICATION NO. 19-44a

ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2019)

A BILL FOR AN ORDINANCE AUTHORIZING THE MAYOR OF THE COUNTY OF MAUI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT AMENDING THE MEMORANDUM OF AGREEMENT FOR LIFEGUARD SERVICES BETWEEN THE STATE OF HAWAII AND THE COUNTY OF MAUI FOR MAKENA BEACH PARK

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. Purpose. On July 3, 2008, the State of Hawaii and the County of Maui entered into an agreement where the County would provide lifeguard services at Makena Beach Park. The State of Hawaii and the County of Maui have amended this Agreement over the years to continue the practice of providing County lifeguard services at Makena Beach. The protections afforded by Act 170, Sessions Laws of Hawaii 2002, as amended, were repealed on June 30, 2017. The removal of these protections affects a significant section of the original agreement and therefore the proposed Amendment to the Memorandum Agreement, attached hereto as Exhibit "1", has the potential to place a financial obligation on the County. Section 2.20.020, Maui County Code ("MCC"), provides that, unless authorized by ordinance, the Mayor shall not enter into any intergovernmental agreement or any amendment thereto which places a financial obligation upon the County or any department or agency thereof.

SECTION 2. Authorization. The Council hereby authorizes the Mayor or his authorized representative to execute the Amendment to the Memorandum of Agreement, and any further amendments thereto.

SECTION 3. Effective date. This ordinance shall take effect upon its approval.

APPROVED AS TO FORM  
AND LEGALITY:



JENNIFER M.P.E. OANA  
Deputy Corporation Counsel  
County of Maui  
LF 2019-1479 (2015-4654)  
2019-09-24 Ordinance MOA 13th Amendment

DAVID Y. IGE  
GOVERNOR OF  
HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
HONOLULU, HAWAII 96809

August 6, 2019

SUZANNE D. CASE  
CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA  
FIRST DEPUTY

M. KALEO MANUEL  
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
COMMISSION ON WATER RESOURCE MANAGEMENT  
CONSERVATION AND COASTAL LANDS  
CONSERVATION AND RESOURCES ENFORCEMENT  
ENGINEERING

FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAHOOLAWE ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

2019 SEP -1 11 12:40  
COMMISSION ON WATER RESOURCE MANAGEMENT  
RECEIVED

Fire Chief David C. Thyne  
County of Maui  
200 Dairy Road  
Kahului, Hawai'i 96732

Dear Fire Chief Thyne:

The purpose of this letter is to serve as the thirteenth written amendment to the Memorandum of Agreement for Lifeguard Services (MOA) made and entered into on July 3, 2008, as amended on July 22, 2009, June 28, 2010, June 16, 2011, June 8, 2012, June 7, 2013, May 14, 2014, June 1, 2015, June 17, 2016, August 22, 2017, October 5, 2017, March 23, 2018, and June 10, 2019 between the State of Hawai'i and the County of Maui for Makena Beach, Makena State Park.

The available funding is limited to \$1,056,059 for this amendment. Division of State Parks understands you can continue to provide lifeguard services at Makena under the following conditions:

1. This amendment will be for lifeguard services at Makena Beach State Recreation Area, Island of Maui, from July 1, 2019 through June 30, 2020, provided that the State may cancel the contract at any time with 30 days written notice.
2. Funding under this amendment can be used solely for Water Safety Officer positions until further discussion and concurrence.
3. The effective date of this amendment is July 1, 2019.
4. Funds to be transmitted to the County of Maui under this amendment shall total \$1,056,059 for the year, subject to availability of funds, but shall be transferred in quarterly increments.
5. The County will submit a quarterly financial statement with the quarterly invoice indicating the staffing paid under the invoice for the quarter.

**EXHIBIT " 1 "**

6. All other terms and conditions of the MOA shall remain unchanged with the exception of Section C. The following language is deleted:

In accordance with Act 170, Session Laws of Hawaii 2002, as amended by Act 152, Session Laws of Hawaii 2007, and Act 81, Session Laws of Hawaii 2009, “a county lifeguard, the employing county, and the State shall not be liable for any civil damages resulting from any act or omission of the lifeguard while providing rescue, resuscitative, or other lifeguard services on the beach or in the ocean in the scope of employment as a county lifeguard. This exception from liability, however, shall not apply when the claim for civil damages results from a county lifeguard’s gross negligence or wanton act or omission.”

Please sign and date below and return the original to us. If there are any questions, contact Mr. Curt A. Cottrell at (808) 587-0290.

Sincerely,



SUZANNE D. CASE  
Chairperson  
Board of Land and Natural Resources

APPROVED AS TO FORM:

  
\_\_\_\_\_  
DEPUTY ATTORNEY GENERAL  
Office of the Attorney General

Date Aug. 15, 2019

APPROVED AS TO FORM  
AND LEGALITY:

\_\_\_\_\_  
Deputy Corporation Counsel  
County of Maui


Date \_\_\_\_\_

ACKNOWLEDGED:  
COUNTY OF MAUI

By \_\_\_\_\_  
Michael P. Victorino, Mayor  
County of Maui

Date \_\_\_\_\_

ACKNOWLEDGED:  
COUNTY OF MAUI

By   
\_\_\_\_\_  
David C. Thyne, Fire Chief  
Maui Fire Department  
County of Maui

Date Sept. 3, 2019